

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF Liem et al.

APPLICATION NO: 09/408,328

Art Unit: 1645

FILED: September 29, 1999

Examiner: J. Hines

FOR: Fusobacterium Necrophorum Vaccine And Method For Making Such  
Vaccine

Assistant Commissioner for Patents  
Washington, D.C. 20231

REVOCATION AND APPOINTMENT OF POWER OF ATTORNEY

I, the undersigned, am an duly appointed officer of Novartis Animal Health, Inc., located at 3200 Northline Avenue, Suite 300, Greensboro, NC 27408, the Assignee, and have authority to sign on behalf of Novartis Animal Health, Inc.

ImmTech Biologics, LLC obtained all rights, title, and interest in the invention described and contained in the above referenced patent application through an Assignment of the inventors, Adrian Liem, Gary A. Anderson, and Douglas L. Stine, on September 29, 1999, this Assignment being recorded with the U.S. Patent and Trademark Office on September 29, 1999 at Reel/Frame 010296/0706.

ImmTech Biologics, LLC, assigned to Novartis Animal Health, Inc. all rights, title, and interest in the invention described and contained in the above referenced patent application through an Assignment of ImmTech Biologics, LLC, to Novartis Animal Health, Inc., on January 4, 2002, a copy of said Assignment is attached hereto.

Novartis Animal Health, Inc., hereby revokes all current Powers of Attorney and hereby appoints the attorneys and agents associated with Customer Number 001095 respectively and individually as Novartis Animal Health's attorneys and agents, with full power for substitution and revocation, to prosecute this application and to transact all business with the U.S. Patent and Trademark Office connected therewith, and direct that all correspondence and communications be directed to the address associated with:

Customer Number 001095

which is currently:

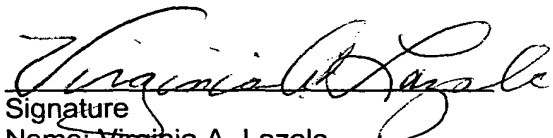
Thomas Hoxie  
Novartis  
Corporate Intellectual Property  
One Health Plaza  
Building 430  
East Hanover, NJ 07936-1080

Novartis Animal Health, Inc., requests that the Examiner note the change in the Attorney Docket number for this patent application. Novartis Animal Health, Inc., kindly requests that the Examiner change the Attorney Docket from "366572" to "H-32682" in all future correspondence.

Should the Examiner have any questions about this Revocation and Appointment of Power of Attorney, the Examiner is requested to contact David L. Marks, Registration No. 37,881, at 862-778-7922.

Respectfully submitted,

5-7-03  
Date

  
Signature  
Name: Virginia A. Lazala

Title: Vice President, General Counsel  
Novartis Animal Health, Inc.  
3200 Northline Avenue  
Suite 300  
Greensboro, NC 27408

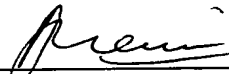
**OATH, POWER OF ATTORNEY, AND PETITION**

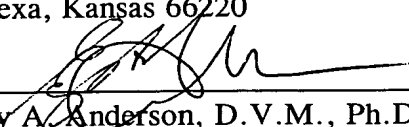
Being duly sworn, we, Adrian Liem, M.D., Ph.D., Gary A. Anderson, D.V.M., Ph.D., and Douglas L. Stine, D.V.M., Ph.D., depose and say that we are citizens of the United States of America, and are residents of the Counties of Johnson, Miami, and Johnson, respectively, and of the Cities of Lenexa, Bucyrus, and Olathe, respectively, and the State of Kansas; that our postal addresses are as identified hereinbelow in association with our signatures; that we verily believe we are the original, first and sole inventors of the subject matter which is claimed and for which a patent is sought on the invention or discovery of *FUSOBACTERIUM NECROPHORUM* VACCINE AND METHOD FOR MAKING SUCH VACCINE, the specification of which is attached hereto; that we have reviewed and do understand the contents of the above-identified specification, including the claims; that we do not know and do not believe that the same was ever known or used in the United States of America before our invention thereof, or patented or described in any printed publication in any country before our invention thereof or more than one year prior to this application; that the same was not in public use or on sale in the United States of America more than one year prior to this application; that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by us or our legal representatives or assigns more than twelve months prior to this application; that we acknowledge our duty to disclose information of which we are aware which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a); that we do not claim foreign priority benefits under Title 35, United States Code, §119, of any foreign application for patent


or inventor's certificate; and, that no foreign application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by us or our legal representatives or assigns.

And we hereby appoint the firm and individual members of LATHROP & GAGE L.C., 2345 Grand Boulevard, Kansas City, Missouri 64108, Telephone (816) 292-2000, a firm composed of Patrick C. Woolley, Reg. No. 39,078; William A. Rudy, Reg. No. 34,916; Peter C. Knops, Reg. No. 37,659; James M. Stipek, Reg. No. 39,388; and Erinn C. Kelly, Reg. No. P-44,822, my attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

WHEREFORE, we pray that Letters Patent be granted to us for the invention or discovery described and claimed in the foregoing specification and claims, oath, power of attorney and this petition, the 27<sup>th</sup> day of September, 1999.

  
\_\_\_\_\_  
Adrian Liem, M.D., Ph.D.  
21101 West 90th Street  
Lenexa, Kansas 66220

  
\_\_\_\_\_  
Gary A. Anderson, D.V.M., Ph.D.  
8600 West 239th Street  
Bucyrus, Kansas 66013

  
\_\_\_\_\_  
Douglas L. Stine, D.V.M., Ph.D.  
882 East Highway 56  
Olathe, Kansas 66061

STATE OF KANSAS

COUNTY OF Miami

SS.

On this 27 day of Sept., 1999, before me personally appeared *Adrian Liem, M.D., Ph.D., Gary A. Anderson, D.V.M., Ph.D., and Douglas L. Stine, D.V.M., Ph.D.*, to me known to be the persons described in and who executed the foregoing instrument as their free act and deed.

In witness whereof, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Kristi Y. Thompson  
Notary Public

My Commission expires:

12-18-02  
(SEAL)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

LIEM ET AL.

APPLICATION NO: UNKNOWN

FILED: HERewith

FOR: FUSOBACTERIUM NECROPHORUM VACCINE AND METHOD  
FOR MAKING SUCH VACCINE

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

STATEMENT OF PUBLIC AVAILABILITY OF BIOLOGICAL MATERIAL

I, David L. Marks, Registration Number 37,881, am the duly appointed attorney of record for the above referenced patent application.


I, hereby state, that the biological material in the above referenced patent application is *Fusobacterium necrophorum* strain number 021496 and has been deposited with American Type Culture Collection, 10801 University Boulevard, Manassas, VA 20109 on November 2, 1999 and assigned ATCC Designation Number PTA-917. American Type Culture Collection is an International Depository Authority under the provisions of the Budapest Treaty.

All restrictions upon public access to the deposit will be waived should a U.S. Patent be issued citing the deposited biological material. While the American Type Culture Collection acknowledges that the deposited biological material was viable, should the culture die, be destroyed, or unviable samples cannot be dispensed during the effective term of the deposit, the Applicants will replace the deposited biological material.

Attached is a copy of American Type Culture Collection's Receipt issued on November 17, 1999, acknowledging the deposit of this biological material and the viability of the biological material.

Respectfully submitted,

Novartis  
Corporate Intellectual Property  
One Health Plaza, Building 430  
East Hanover, NJ 07936-1080  
(862) 778-7922

  
David L. Marks  
Attorney for Applicants  
Reg. No. 37,881

Date: Aug 21, 2003

# ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-

## BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

### INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

**To: (Name and Address of Depositor or Attorney)**

ImmTech  
Attn: Dr. Adrian Liem  
8600 West 239<sup>th</sup> Street  
Bucyrus, KS 66013

**Deposited on Behalf of:** ImmTech

**Identification Reference by Depositor:**

**Patent Deposit Designation**

*Fusobacterium necrophorum* subspecies *necrophorum* 021496

PTA-917

The deposit was accompanied by: ☐ a scientific description ☒ a proposed taxonomic description indicated above.

The deposit was received November 2, 1999 by this International Depository Authority and has been accepted.

**AT YOUR REQUEST:** ☒ We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested November 17, 1999. On that date, the culture was viable.

**International Depository Authority:** American Type Culture Collection, Manassas, VA 20110-2209 USA.

**Signature of person having authority to represent ATCC:**

  
Barbara M. Halley, Administrator, Patent Depository

**Date:** November 17, 1999

cc: Patrick C. Wooley